

Missouri Office of Broadband Development

**Broadband Equity, Access, and Deployment (BEAD) Environmental and
Historic Preservation Documentation**

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MO OBD Environmental and Historic Preservation (EHP) Requirements

The Missouri Department of Economic Development, Office of Broadband Development (MO OBD) will ensure full compliance with all applicable environmental and historic preservation (EHP) requirements by adhering to the requirements of the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA), Section 7 of the Endangered Species Act, and Section 404 of the Clean Water Act, as applicable, in addition to any other relevant local, state, or federal environmental and cultural resources laws, and NTIA guidance. This compliance is a critical part of the BEAD project review process and all subgrantee projects will undergo a detailed evaluation to ensure minimal environmental and historic impacts. In addition, MO OBD and the selected third-party contractor will synchronize permitting with the environmental review process to the extent practicable to streamline the permitting process.

MO OBD will not allow to be initiated, as enforceable by the subgrant agreement, any grant funded implementation activities prior to the completion of reviews required under NEPA and NHPA Section 106, including any consultations required by federal law, to include consultations with the State Historic Preservation Office and federally recognized Native American Tribes.

Environmental Documentation: The Missouri Office of Broadband Development (MO OBD) will work with its selected third-party contractor and BEAD subgrantees to provide the environmental documentation necessary for EHP compliance which will include but is not limited to:

- Categorical Exclusion, Environmental Assessment, and Environmental Impact Statement template packets
- Best Management Practices (BMPs) and Mitigation Measures Tracking template.
- NEPA and NHPA Policy Guidelines

Compliance: Acting as Joint-Lead Agency, and with assistance from the selected third-party contractor, MO OBD will employ a structured methodology to evaluate subgrantee projects and activities for compliance with the National Environmental Policy Act (NEPA). Upon approval of Missouri's BEAD Final Proposal, each subgrantee project will undergo a preliminary review to determine the level of NEPA review needed and ensure NEPA compliance, consistent with federal regulations.

MO OBD and the third-party contractor will review these preliminary submissions, as they are received from subgrantees, and provide technical assistance as needed, to ensure that submissions are NEPA compliant and meet BEAD program requirements. All analysis and documentation associated with EHP compliance for subgrantee BEAD projects will be recorded in the ESAPPT system. Upon determination from the third-party contractor and MO OBD, draft NEPA documentation and relevant project information will be compiled and transmitted electronically via the ESAPPT system to the National Information and Telecommunications Administration (NTIA) for review and concurrence. MO OBD and the selected third-party contractor will work with subgrantees to support the use of NEPA Best Management Practices to create mitigation measures to avoid or minimize potential environmental impacts from the project as it works with subgrantees to conduct the required screening and documentation of projects.



MO OBD and its third-party contractor will utilize the following process to identify and categorize projects under their appropriate NEPA classification, screen for extraordinary circumstances, and submit compliant environmental and historic preservation documentation to NTIA for approval, and allow for construction commencement:

- Initial Review of Project Scope: Screen submitted subgrantee projects to evaluate their potential environmental impacts. This process will follow NEPA guidance provided by NTIA. MO OBD and the selected third-party contractor will review the project scope and details which include project size, location, technology type, and proximity to sensitive environmental or historical areas.
- Categorical Exclusion Screening: Submitted subgrantee projects will be cross referenced with the NTIA list of Categorical Exclusion. Projects that consist of minimal or no environmental impacts are more likely to qualify for a categorical exclusion. MO OBD anticipates that the majority of subgrantee projects will qualify as a categorical exclusion.
- Extraordinary Circumstances Review: In addition to reviewing for categorical exclusions, MO OBD and the selected third-party contractor will be reviewed to determine if any extraordinary circumstances are present. If an extraordinary circumstance is identified, MO OBD and the selected third-party contractor will supervise the subgrantee in conducting and documenting the appropriate environmental analysis to determine whether the project could be classified as a categorical exclusion or if a higher-level environmental review, such as an Environmental Assessment or Environmental Impact Statement is necessary.
- Document Preparation: After screening for categorical exclusions and extraordinary circumstances, MO OBD and the third-party contractor will review subgrantees submitted environmental documentation for completeness and accuracy, ensure compliance and submitted to NTIA through the ESAPPT portal.
- Construction Commencement: Construction may only commence upon environmental clearance and a notice of proceed (NTP) is issued for subgrantee projects.

Joint Lead Agency Responsibility Summary

The Missouri Office of Broadband Development (OBD) understands that it shall serve as a joint lead agency to implement EHP requirements under 42 U.S.C. 4336a. As such, OBD along with the selected third-party contractor will supervise the preparation of required NEPA analyses and review documents required for sub-grantee BEAD projects. MO OBD, alongside the selected third-party contractor will act as EHP and permitting technical advisors for subgrantees throughout the BEAD

grant lifecycle. In addition, MO OBD and the selected third-party contractor will disseminate BEAD EHP and permitting information and educational materials to subgrantees.

NHPA Compliance

The Missouri Office of Broadband Development (MO OBD) will not allow to be initiated, as enforceable by the Subgrant Agreement, any grant funded implementation activities prior to the completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.), including any consultations required by Federal law, to include consultations with the State Historic Preservation Office and Federally recognized Native American tribes.

To ensure the timely completion of historic preservation review for all BEAD-funded activities, MO OBD will require that Subgrantees provide all such information required to:

- At the earliest possible time, provide the NTIA-assigned Environmental Program Officer sufficient information to initiate Tribal notification via the FCC's Tower Construction Notification System (TCNS) when required for grant funded activities;
- Provide notified Tribes with information regarding grant funded activities via their preferred communication means, as identified in TCNS;
- Apply the Advisory on Historic Preservation (ACHP) Program Comment to Avoid Duplicative Reviews for Wireless Communications Facilities or any other applicable program comment or program alternative developed to address the Section 106 review of communications facilities;
- Notify NTIA of any Tribal request for government-to-government consultation or any identification that a grant funded activity may impact a historic property of religious or cultural significance to a Tribe; and
- Provide all consulting parties with the statutorily required time to respond to its determination of a grant funded activity's effect on historic properties.

Description of FirstNet Regional PEIS Evaluation

OBD has reviewed the FirstNet Programmatic Environmental Impact Statement (PEIS). At this time the exact scope and location of subgrantee projects is to be determined.

It is anticipated that deployment related activities for projects within Missouri are covered by the actions described in Chapter 10. In all cases, project scopes will be reviewed to evaluate whether activities are covered by the FirstNet PEIS. In the event that subgrantee proposed projects are not sufficiently covered by the FirstNet Regional PEIS, additional analysis will be conducted by OBD and the selected third-party contractor to determine whether supplemental environmental



assessment is required to address identified gaps or deficiencies. Although final project scopes and locations are not known, the following activities described in the PEIS may be implemented.

- **Wired Projects**
 - o New Build-Buried Fiber Optic Plant
 - o New Build-Aerial Fiber Optic Plant
 - o New Build- Submarine Fiber Optic Plant
 - o Collocation on Existing Aerial Fiber Optic Plant
 - o Use of Existing Conduit- New Buried Fiber Optic Plant
 - o Use of Existing Buried or Aerial Fiber Optic Plant or Existing Submarine Cable
 - o Installation of Optical Transmission or Centralized Transmission Equipment
- **Wireless Projects**
 - o New Wireless Communication Towers
 - o Collocation on Existing Wireless Tower, Structure, or Building
- **Satellite and Other Technologies**
 - o Satellite-Enabled Devices and Equipment

OBD also reviewed the PEIS regarding the following:

- **Regulatory Changes:** The following changes have occurred to Missouri Environmental or Historic Preservation Laws in Missouri, but are not anticipated to have a material impact on the analysis presented in the PEIS.
 - o CSR Title 11 Department of Public Safety, sections 11 CSR 10-11.010, 10-11.020, 10-11.030, 10-11.040, 10-11.050, 10-11.070, 10-11.090, 10-11.100, 10-11.110 and 10-11.120 have been rescinded.
 - o CSR Title 11 Department of Public Safety, sections 11 CSR 10-11.060, 10-11.080, 10-11.210, 10-11.220, 10-11.230, 10-11.240, 10-11.250 have been transferred to 11 CSR Division 20.
 - o CSR Title 10 Department of Natural Resources section 10 CSR 45-1.010 has been rescinded.
 - o CSR Chapter 253.411 was proposed for enactment in a 2005 house bill, but this bill failed to pass in 2005 and 2007, 253.411 is not currently a statute.
 - o CSR Chapter 253.412 was repealed by SB 843 in 2018.

There are no other known changes to environmental or historic preservation laws and regulations in the State of Missouri that would have a material impact on the analysis presented in the PEIS.

- **Affected Environment:** The PEIS adequately describes the potentially affected environment in Missouri, including infrastructure and biological resources. The following species have been listed on the U.S. Fish and Wildlife Service's (FWS) Endangered and Threatened



Species List since the publication of the PEIS and are believed or known to occur in Missouri. It is not anticipated that the listings below will have a material impact on broadband deployment activities apart from the analyses and protections already in place for threatened and endangered species in Missouri. The species added to the FWS list since the publication of the PEIS include the following:

Mammals

- Tricolored Bat (*Perimyotis subflavus*) – Proposed Endangered

Birds

- Eastern Black Rail (*Laterallus jamaicensis* ssp. *Jamaicensis*) – Threatened

Clams

- Salamander Mussel (*Simpsonia ambigua*) – Proposed Endangered
- Orangefoot Pimpleback Pearly Mussel (*Plethobasus cooperianus*) – Endangered
- Ring Pink (*Obovaria retusa*) – Endangered
- Rough Pigtoe (*Pleurobema plenum*) – Endangered
- Western Fanshell (*Cyprogenia aberti*) – Threatened

Crustaceans

- Benton County Cave Crayfish (*Cambarus aculabrum*) – Endangered
- Big Creek Crayfish (*Faxonius peruncus*) – Threatened
- St. Francis River Crayfish (*Faxonius quadruncus*) – Threatened

Reptiles

- Alligator Snapping Turtle (*Macrochelys temminckii*) – Proposed Threatened
- Eastern Massasauga Rattle Snake (*Sistrurus catenatus*) – Threatened

Insects

- American Burying Beetle (*Nicrophorus americanus*) - Experimental Population, Non-essential
- Monarch Butterfly (*Danaus plexippus*) - Proposed Threatened
- Suckley's Cuckoo Bumble Bee (*Bombus suckleyi*) – Proposed Endangered
- Western Regal Fritillary (*Argynnis idalia occidentalis*) – Proposed Threatened

Plants

- Geocarpon minimum – Threatened

Missouri currently has twelve (12) critical habitats wholly or partially within state boundaries under the jurisdiction of the U.S. Fish and Wildlife Service. These critical habitats are as follows:

- Big Creek Crayfish (*Faxonius peruncus*) – Final
- Hine's Emerald Dragonfly (*Somatochlora hineana*) – Final
- Indiana Bat (*Myotis sodalists*) – Final
- Neosho Mucket (*Lampsilis rafinesqueana*) – Final
- Niangua Darter (*Etheostoma nianguae*) – Final
- Rabbitsfoot (*Quadrula cylindrica cylindrica*) – Final
- Sheepnose Mussel (*Plethobasus cyphus*) – Proposed



- Snuffbox Mussel (*Epioblasma triquetra*) – Proposed
- Spectaclecase (mussel) (*Cumberlandia monodonta*) – Proposed
- St. Francis River Crayfish (*Faxonius quadruncus*) – Final
- Tumbling Creek Cavesnail (*Antrobia culveri*) – Final
- Western Fanshell (*Cyprogenia aberti*) – Final

In addition to the species and critical habitats listed above, 174 new locations have been added to the National Registry of Historic Places in Missouri since the June 2017 publication date of the FirstNET PEIS for Missouri.

Specific Award Conditions (SACs) Description

The grant agreement to be used for deployment activities includes provisions prohibiting subgrantees from initiating or allowing any grant funded implementation activities prior to the following:

- The completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. & 4321, et seq.) (NEPA), and issuance by NTIA and DED, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), or Record of Decision (ROD) that meets the requirements of NEPA;
- The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. & 300101, et seq.) (NHPA), including any consultations required by Federal law, to include consultations with the State Historic Preservation Office (SHPO), and Federally recognized Native American tribes;
- The completion of consultations with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable, under section 7 of the Endangered Species Act (16 U.S.C. & 1531, et seq.), and/or consultations with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (33 U.S.C. & 1251, et seq.), as applicable; and
- Demonstration of compliance with all other applicable Federal, state, and local environmental laws and regulations.

Additionally, the grant agreement requires that the subgrantee:

- Will not commence implementation and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified in the Subgrant Agreement.
- Must timely prepare any required NEPA documents and obtain any required permits, and must adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336g(a); and
- Must include in its project timeline specific deadlines and for the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of Environmental Assessments (EAs) or Environmental Impact Statements (EISs).